

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

JENNIFER KASILAG, *et al.*,

Plaintiffs,

v.

HARTFORD INVESTMENT FINANCIAL  
SERVICES, LLC,

Defendant.

Civil No. 1:11-cv-01083-RMB-KMW

**JOINT STIPULATION AND [PROPOSED] ORDER REGARDING CONSOLIDATION**

WHEREAS on November 14, 2011, Plaintiffs Jennifer Kasilag, Louis Mellinger, Judith Menendez, Jacqueline Robinson, Linda Russell, and Dennis Russell (collectively, the “*Kasilag I* Plaintiffs”) filed a Second Amended Complaint in the above-captioned action (“*Kasilag I*”) asserting claims against Defendant Hartford Investment Financial Services, LLC (“HIFSCO”) on behalf of the Hartford Healthcare Fund (f/k/a the Hartford Global Health Fund), the Hartford Conservative Allocation Fund, the Hartford Growth Opportunities Fund, the Hartford Inflation Plus Fund, the Hartford Balanced Fund (f/k/a the Hartford Advisers Fund), and the Hartford Capital Appreciation Fund (collectively, the “*Kasilag I* Funds”);

WHEREAS by Order, dated December 17, 2012, the Court denied HIFSCO’s motion to dismiss the *Kasilag I* Plaintiffs’ claim that HIFSCO breached its fiduciary duty under Section 36(b) of the Investment Company Act of 1940, 15 U.S.C. § 80a-35(b) (“Section 36(b)”), by receiving excessive investment management fees from the *Kasilag I* Funds and granted HIFSCO’s motion to dismiss the *Kasilag I* Plaintiffs’ claim that HIFSCO breached its fiduciary duty under Section 36(b) by receiving excessive 12b-1 fees from the *Kasilag I* Funds;

WHEREAS HIFSCO served its Answer and Affirmative Defenses to the Second Amended Complaint in *Kasilag I* on January 14, 2013;

WHEREAS the *Kasilag I* Plaintiffs have served discovery requests on HIFSCO, including Plaintiffs' First Request for Production of Documents, dated March 22, 2013, and Plaintiffs' First Set of Interrogatories, dated March 27, 2013 (together, the "Discovery Requests");

WHEREAS HIFSCO has served written responses and objections to the Discovery Requests and has produced certain documents and information in response to the Discovery Requests;

WHEREAS discovery in *Kasilag I* is ongoing;

WHEREAS Hartford Funds Management Company, LLC ("HFMC") replaced HIFSCO as the *Kasilag I* Funds' investment adviser effective January 1, 2013 (HIFSCO and HFMC are hereinafter collectively referred to as "Defendants");

WHEREAS on March 11, 2014, the *Kasilag I* Plaintiffs, along with one additional plaintiff Darin Dudek (together, "Plaintiffs"), filed a new action captioned *Kasilag, et al. v. Hartford Funds Management Company, LLC* ("*Kasilag II*") against HFMC on behalf of the *Kasilag I* Funds and two additional funds, the Hartford Floating Rate Fund and the Hartford Small Company Fund (collectively, the "Additional Funds," and together with the *Kasilag I* Funds, the "Funds");

WHEREAS Plaintiffs identified *Kasilag II* as related to *Kasilag I* on the Civil Cover Sheet for *Kasilag II*;

WHEREAS the Complaint in *Kasilag II* alleges that HFMC breached its fiduciary duty under Section 36(b) by receiving excessive investment management fees from the Funds;

WHEREAS *Kasilag II* challenges the same basic underlying conduct as *Kasilag I*, although against a different Defendant and for a different time period with respect to the two Additional Funds; and

WHEREAS in view of the common issues of law and fact involved in *Kasilag I* and *Kasilag II*, the parties agree that the two actions should be assigned to the same Judge and consolidated;

THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the parties through their respective counsel and subject to the Court's approval that:

1. *Kasilag I* and *Kasilag II* are consolidated for all purposes pursuant to Fed. R. Civ. P. 42 and L. Civ. R. 42.1.
2. Defendant HFMC shall have until April 10, 2014 to serve an answer to the complaint in *Kasilag II*.
3. *Kasilag I* and *Kasilag II* shall proceed on the same schedule, and the parties agree to meet and confer regarding any modifications that may be necessary to the Scheduling Order entered in *Kasilag I* on June 28, 2013 (Dkt. No. 56).
4. All requests for documents and information in Plaintiffs' Discovery Requests are deemed amended to encompass documents and information relating to the Additional Funds. Specifically, the definition of the term "Hartford Funds," as used in the Discovery Requests, is deemed amended to include each of the Additional Funds.
5. All of HIFSCO's prior responses and objections to Plaintiffs' Discovery Requests are deemed amended to assert the same objections with respect to Plaintiffs' requests for

documents and information relating to the Additional Funds as were previously asserted with respect to Plaintiffs' requests for documents and information relating to the *Kasilag I* Funds, except that Defendants further object to the Discovery Requests to the extent they seek documents or information relating to the Additional Funds prior to January 1, 2011. Plaintiffs expressly preserve their positions and rights with respect to Defendants' objections to the Discovery Requests.

6. Subject to ¶ 5 above, Defendants shall produce documents and information relating to the Additional Funds that are responsive to the Discovery Requests, as modified by ¶ 4 above and by prior agreement of the parties. The parties agree to meet and confer regarding a schedule for Defendants to complete their production of documents pursuant to this ¶ 6.

7. Neither the filing of *Kasilag II* nor the consolidation of *Kasilag I* and *Kasilag II* shall operate as a waiver as to the position of any party with respect to the appropriate damages period claimed for any of the Funds.

8. Plaintiffs expressly preserve the right to seek damages for the *Kasilag I* Funds for the period beginning one year prior to the filing of the complaint in *Kasilag I* through the date of final judgment in *Kasilag I*, and to seek damages for the Funds, including the Additional Funds, for the period beginning one year prior to the filing of the complaint in *Kasilag II* through the date of final judgment in *Kasilag II*.

9. Pursuant to Section 36(b)(3) of the Investment Company Act of 1940, 15 U.S.C. § 80a-35(b)(3), no damages shall be recoverable with respect to the Additional Funds for any period prior to one year before the date of the filing of the complaint in *Kasilag II*, and the claims asserted in *Kasilag II* shall not relate back to the complaint in *Kasilag I*.

10. Defendants expressly preserve all defenses and objections to the damages sought by Plaintiffs and to other issues not specifically set forth herein.

Dated: March 11, 2014

Respectfully submitted,

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IT IS SO ORDERED.

Dated: March \_\_, 2014

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THE HONORABLE RENEE MARIE BUMB  
UNITED STATES DISTRICT JUDGE